

4444

2015-2016 Regular Sessions

I N S E N A T E

March 20, 2015

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law and the vehicle and traffic law, in relation to enacting the "personal motor vehicle sharing act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "personal motor vehicle sharing act".

3 S 2. The insurance law is amended by adding a new article 35 to read
4 as follows:

5 ARTICLE 35

6 PERSONAL MOTOR VEHICLE SHARING PROGRAMS

7 SECTION 3501. DEFINITIONS.

8 3502. REQUIREMENTS FOR DOING BUSINESS.

9 3503. LIABILITY PROVISIONS.

10 3504. GROUP INSURANCE FOR PERSONAL MOTOR VEHICLE SHARING
11 PROGRAMS.

12 S 3501. DEFINITIONS. IN THIS ARTICLE THE FOLLOWING TERMS SHALL HAVE
13 THE FOLLOWING DEFINITIONS:

14 (A) "MOTOR VEHICLE" SHALL:

15 (1) HAVE THE MEANING SET FORTH IN SECTION ONE HUNDRED TWENTY-FIVE OF
16 THE VEHICLE AND TRAFFIC LAW;

17 (2) HAVE A GROSS WEIGHT RATING OF TEN THOUSAND POUNDS OR LESS; AND

18 (3) NOT BE USED FOR THE COMMERCIAL DELIVERY OR TRANSPORTATION OF GOODS
19 OR MATERIALS.

20 (B) "PERSONAL PASSENGER MOTOR VEHICLE" MEANS A MOTOR VEHICLE OWNED AND
21 REGISTERED IN THE STATE, AND INSURED OR SUBJECT TO BEING INSURED UNDER A
22 PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE POLICY INSURING A
23 SINGLE INDIVIDUAL OR INDIVIDUALS RESIDING IN THE SAME HOUSEHOLD, AS THE
24 NAMED INSURED, BUT DOES NOT INCLUDE A MOTOR VEHICLE WITH FEWER THAN FOUR
25 WHEELS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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(C) "PERSONAL MOTOR VEHICLE SHARING" MEANS THE USE OF PRIVATE PASSENGER MOTOR VEHICLES BY PERSONS OTHER THAN THE VEHICLES' OWNER, IN CONNECTION WITH A PERSONAL MOTOR VEHICLE SHARING PROGRAM.

(D) "PERSONAL MOTOR VEHICLE SHARING PROGRAM" MEANS A PROGRAM ENGAGED IN FACILITATING THE SHARING OF PRIVATE PASSENGER MOTOR VEHICLES.

(E) "PERSONAL MOTOR VEHICLE SHARING PROGRAM PROVIDER" OR "PROGRAM PROVIDER" MEANS THE PERSON OR ENTITY THAT IS RESPONSIBLE FOR OPERATING OR ADMINISTERING THE PERSONAL MOTOR VEHICLE SHARING PROGRAM.

(F) "PERSONAL MOTOR VEHICLE SHARING OWNER" OR "OWNER" MEANS THE REGISTERED OWNER OF THE PERSONAL PASSENGER MOTOR VEHICLE.

(G) "PERSONAL MOTOR VEHICLE SHARING RENTER" OR "RENTER" MEANS A PERSON, OTHER THAN THE VEHICLE OWNER, WHO RENTS THE OWNER'S VEHICLE THROUGH A PERSONAL MOTOR VEHICLE SHARING PROGRAM.

(H) "RENTAL PERIOD" SHALL HAVE THE MEANING SET FORTH IN SUBSECTION (C) OF SECTION THREE THOUSAND FIVE HUNDRED THREE OF THIS ARTICLE.

(I) "GROUP POLICY" MEANS AN INSURANCE POLICY ISSUED PURSUANT TO SECTION THREE THOUSAND FIVE HUNDRED FOUR OF THIS ARTICLE.

S 3502. REQUIREMENTS FOR DOING BUSINESS. (A) NO PRIVATE PASSENGER MOTOR VEHICLE INSURED OR SUBJECT TO BEING INSURED BY ITS OWNER PURSUANT TO A POLICY OF INSURANCE SUBJECT TO SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OR ARTICLE FIFTY-THREE OF THIS CHAPTER SHALL BE CLASSIFIED AS A COMMERCIAL VEHICLE, FOR-HIRE VEHICLE, PERMISSIVE USE VEHICLE, TAXI-CAB OR LIVERY SOLELY BECAUSE ITS OWNER ALLOWS IT TO BE USED FOR PERSONAL MOTOR VEHICLE SHARING AS LONG AS ALL OF THE FOLLOWING CIRCUMSTANCES APPLY:

(1) THE PERSONAL MOTOR VEHICLE SHARING IS COMPLIANT WITH A PERSONAL MOTOR VEHICLE SHARING PROGRAM AS PROVIDED FOR IN THIS ARTICLE;

(2) THE OWNER OF THE PRIVATE PASSENGER MOTOR VEHICLE DOES NOT KNOWINGLY PLACE THE VEHICLE INTO USE AS A COMMERCIAL VEHICLE OR AS A VEHICLE FOR HIRE BY A PERSONAL MOTOR VEHICLE SHARING RENTER WHILE ENGAGED IN PERSONAL MOTOR VEHICLE SHARING; AND

(3) THE AMOUNT OF PERSONAL PASSENGER MOTOR VEHICLES AN OWNER MAY ENROLL IN THE PROGRAM SHALL BE LIMITED TO TWO MOTOR VEHICLES FOR THE NAMED PRIMARY POLICY HOLDER OF A PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE POLICY, AND ONE VEHICLE FOR EACH ADDITIONAL INDIVIDUAL NAMED ON THE PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE POLICY.

(B) A PROGRAM PROVIDER SHALL, FOR EACH VEHICLE THAT IT FACILITATES THE USE OF, DO ALL OF THE FOLLOWING:

(1) DURING THE RENTAL PERIOD FOR A VEHICLE ENGAGED IN PERSONAL MOTOR VEHICLE SHARING, PROCURE GROUP INSURANCE COVERAGE FOR EACH VEHICLE AND AUTHORIZED OPERATOR OF THE VEHICLE. SUCH INSURANCE SHALL, AT A MINIMUM, PROVIDE FOR EACH VEHICLE COVERAGE AT LEAST EQUAL TO THE MINIMUM INSURANCE REQUIREMENTS FOR PRIVATE PASSENGER MOTOR VEHICLES AS PROVIDED BY SECTION THREE HUNDRED FORTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, SUBSECTION (A) OF SECTION THREE THOUSAND FIVE HUNDRED FOUR OF THIS ARTICLE, ARTICLE FIFTY-ONE OF THIS CHAPTER AND SUCH OTHER LAWS OF THE STATE WITH RESPECT TO MANDATORY LIABILITY, UNINSURED AND UNDERINSURED, AND FIRST-PARTY BENEFITS COVERAGE AS MAY BE ENACTED FROM TIME TO TIME. THE PROGRAM SHALL ALSO OFFER PROPERTY AND CASUALTY COVERAGE INCLUDING COMPREHENSIVE AND COLLISION PROTECTION, AS FURTHER DESCRIBED IN SUBSECTIONS (D) AND (E) OF SECTION THREE THOUSAND FIVE HUNDRED FOUR OF THIS ARTICLE;

(2) PROVIDE THE REGISTERED OWNER OF THE MOTOR VEHICLE WITH SUITABLE PROOF OF COMPLIANCE WITH THE INSURANCE REQUIREMENTS OF THIS SECTION AND THE REQUIREMENTS OF SECTIONS THREE HUNDRED ELEVEN AND THREE HUNDRED FORTY-FIVE OF THE VEHICLE AND TRAFFIC LAW AND ARTICLE FIFTY-ONE OF THIS

CHAPTER, A COPY OF WHICH SHALL BE MAINTAINED IN THE VEHICLE BY THE VEHICLE'S REGISTERED OWNER DURING ANY TIME WHEN THE VEHICLE IS OPERATED BY THE RENTER, OR PERSON OTHER THAN THE OWNER PURSUANT TO A PERSONAL MOTOR VEHICLE SHARING PROGRAM;

(3) NOT KNOWINGLY PERMIT THE VEHICLE TO BE OPERATED FOR COMMERCIAL USE OR AS A VEHICLE FOR HIRE BY A PERSONAL MOTOR VEHICLE SHARING RENTER WHILE ENGAGED IN PERSONAL MOTOR VEHICLE SHARING;

(4) PROVIDE EACH PERSONAL MOTOR VEHICLE RENTER FOR EACH VEHICLE RENTAL TRANSACTION UNDER THE PERSONAL MOTOR VEHICLE SHARING PROGRAM AT THE TIME OF EACH RENTAL:

(A) AN INSURANCE IDENTIFICATION CARD AS DEFINED IN PARAGRAPH TEN OF SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND TRAFFIC LAW, OR OTHER DOCUMENTATION ABLE TO BE CARRIED IN THE VEHICLE AT ALL TIMES DURING THE RENTAL THAT INSURANCE COVERAGE REFERRED TO IN PARAGRAPH ONE OF THIS SUBSECTION IS IN FULL FORCE AND EFFECT; AND

(B) PROVIDE MEANS VIA A TOLL FREE NUMBER, EMAIL ADDRESS OR SUCH OTHER MEANS OF COMMUNICATION PURSUANT TO WHICH A LAW ENFORCEMENT POLICE OFFICER, A REPRESENTATIVE OF THE DEPARTMENT OF MOTOR VEHICLES OR OTHER OFFICER OF THIS STATE OR ANY POLITICAL SUBDIVISION THEREOF MAY CONFIRM IN REAL TIME THAT INSURANCE COVERAGE PROVIDED FOR IN PARAGRAPH ONE OF THIS SUBSECTION IS IN EFFECT;

(5) SHALL COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF SECTION THREE HUNDRED TWELVE OF THE VEHICLE AND TRAFFIC LAW;

(6) REQUIRE THAT THE VEHICLES USED IN THE PERSONAL MOTOR VEHICLE SHARING PROGRAM ARE LIMITED TO PERSONAL PASSENGER MOTOR VEHICLES;

(7) FACILITATE THE INSTALLATION, OPERATION AND MAINTENANCE OF ITS OWN SIGNAGE AND COMPUTER HARDWARE AND SOFTWARE TO THE EXTENT NECESSARY FOR THE VEHICLE TO BE USED IN THE PROGRAM;

(8) INDEMNIFY AND HOLD HARMLESS THE VEHICLE'S OWNER FOR THE COST OF DAMAGE OR THEFT OF EQUIPMENT INSTALLED BY THE PROGRAM UNDER PARAGRAPH SEVEN OF THIS SUBSECTION FOR ANY DAMAGE CAUSED TO THE VEHICLE BY THE INSTALLATION, OPERATION OR MAINTENANCE OF SUCH EQUIPMENT;

(9) COLLECT, MAINTAIN AND MAKE AVAILABLE TO THE VEHICLE'S OWNER, THE OWNER'S PRIMARY MOTOR VEHICLE LIABILITY INSURER, THE RENTER'S PRIMARY AUTOMOBILE INSURER, EXCESS OR UMBRELLA INSURER AND ANY GOVERNMENT AGENCY AS REQUIRED BY LAW, WITHIN TEN BUSINESS DAYS OF A REQUEST AT THE COST OF THE PROGRAM, THE FOLLOWING INFORMATION PERTAINING TO INCIDENTS WHICH OCCURRED DURING THE RENTAL PERIOD:

(A) VERIFIABLE RECORDS OF THE PROGRAM USE PERIOD FOR EACH VEHICLE, VERIFIABLE ELECTRONIC RECORDS OF THE TIME, INITIAL AND FINAL LOCATIONS OF THE VEHICLE, AND (TO THE EXTENT MILEAGE IS COLLECTED) MILES DRIVEN; AND

(B) IN INSTANCES WHERE AN INSURANCE CLAIM HAS BEEN FILED WITH A GROUP INSURER, ANY AND ALL INFORMATION RELEVANT TO THE CLAIM, INCLUDING PAYMENTS BY THE PROGRAM CONCERNING ACCIDENTS, DAMAGES AND INJURIES; AND

(10) ENSURE THAT THE OWNER AND RENTER ARE GIVEN NOTICE PRIOR TO THE FIRST USE OR OPERATION OF A MOTOR VEHICLE PURSUANT TO ENROLLMENT IN A PERSONAL MOTOR VEHICLE SHARING PROGRAM, THAT:

(A) DURING THE RENTAL PERIOD, THE OWNER'S INSURER MAY EXCLUDE ANY AND ALL COVERAGE AFFORDED TO ITS POLICY AND THE OWNER'S INSURER, SHALL HAVE THE RIGHT TO NOTIFY AN INSURED THAT IT SHALL HAVE NO DUTY TO DEFEND OR INDEMNIFY ANY PERSON OR ORGANIZATION FOR LIABILITY FOR ANY LOSS THAT OCCURS DURING THE RENTAL PERIOD; AND

(B) THE GROUP POLICY AND PHYSICAL DAMAGE COVERAGE CONTRACT MAY NOT PROVIDE COVERAGE OUTSIDE OF THE RENTAL PERIOD.

1 (C) A PERSONAL MOTOR VEHICLE OWNER PARTICIPATING IN A PERSONAL MOTOR
2 VEHICLE SHARING PROGRAM, SHALL WITHIN THIRTY DAYS OF ENROLLMENT OF A
3 PERSONAL PASSENGER MOTOR VEHICLE IN A PERSONAL MOTOR VEHICLE SHARING
4 PROGRAM, OR PRIOR TO THE FIRST RENTAL OF THE PERSONAL PASSENGER MOTOR
5 VEHICLE IN THE PERSONAL MOTOR VEHICLE SHARING PROGRAM, WHICHEVER IS
6 SOONER, NOTIFY THE INSURANCE COMPANY WITH WHICH THE PERSONAL MOTOR VEHIC-
7 LE OWNER HAS CONTRACTED TO PROVIDE LIABILITY AND PROPERTY AND CASUALTY
8 INSURANCE COVERAGE FOR THE PERSONAL PASSENGER MOTOR VEHICLE, INCLUDING
9 ANY INSURER PROVIDING EITHER PRIMARY OR EXCESS COVERAGE, OR BOTH, IN
10 WRITING, BY EMAIL OR BY ANY OTHER MEANS AS SUCH INSURANCE COMPANY MAY
11 REQUIRE THAT SUCH PERSONAL PASSENGER MOTOR VEHICLE WILL BE OR HAS BEEN
12 ENROLLED IN THE PERSONAL MOTOR VEHICLE SHARING PROGRAM, AND;

13 (1) THE INSURANCE COMPANY, WITH WHICH THE PERSONAL MOTOR VEHICLE OWNER
14 HAS CONTRACTED TO PROVIDE LIABILITY AND PROPERTY AND CASUALTY INSURANCE
15 COVERAGE FOR THE PERSONAL PASSENGER MOTOR VEHICLE, INCLUDING ANY INSURER
16 PROVIDING EITHER PRIMARY OR EXCESS COVERAGE, OR BOTH, MAY REQUIRE, AND
17 UPON SUCH REQUIREMENT, THE PERSONAL MOTOR VEHICLE OWNER SHALL PROVIDE TO
18 SUCH INSURANCE COMPANY, THE NAME AND WEBSITE OF THE PERSONAL MOTOR VEHIC-
19 LE SHARING PROGRAM PROVIDER, AND THE NAME OF THE INSURANCE COMPANY OR
20 COMPANIES WITH WHICH THE PERSONAL MOTOR VEHICLE SHARING PROGRAM PROVIDER
21 CONTRACTS TO PROVIDE LIABILITY AND PROPERTY AND CASUALTY INSURANCE
22 COVERAGE FOR THE PERSONAL PASSENGER MOTOR VEHICLE DURING THE RENTAL
23 PERIOD;

24 (2) THE INSURANCE COMPANY, WITH WHICH THE PERSONAL MOTOR VEHICLE OWNER
25 HAS CONTRACTED TO PROVIDE LIABILITY AND PROPERTY AND CASUALTY INSURANCE
26 COVERAGE FOR THE PERSONAL PASSENGER MOTOR VEHICLE, INCLUDING ANY INSURER
27 PROVIDING EITHER PRIMARY OR EXCESS COVERAGE, OR BOTH, MAY, UPON THE
28 NOTICE REQUIRED BY THIS PARAGRAPH, DISCLAIM COVERAGE FOR ANY AND ALL
29 LIABILITY AND/OR DAMAGE INVOLVING THE PERSONAL PASSENGER MOTOR VEHICLE
30 DURING ANY TIME PERIOD IN WHICH THE PERSONAL PASSENGER MOTOR VEHICLE IS
31 BEING RENTED UNDER THE PERSONAL MOTOR VEHICLE SHARING PROGRAM, BUT IN NO
32 EVENT SHALL ANY INSURANCE COMPANY SO NOTIFIED UNDER THIS PARAGRAPH, BE
33 PERMITTED TO CANCEL COVERAGE FOR OR INCREASE RATES FOR THE COST OF THE
34 CONTRACT TO PROVIDE LIABILITY AND PROPERTY AND CASUALTY INSURANCE COVER-
35 AGE, INCLUDING PRIMARY AND/OR EXCESS COVERAGE, OR BOTH, FOR THE PERSONAL
36 PASSENGER MOTOR VEHICLE, SOLELY DUE TO THE FACT THAT THE PERSONAL
37 PASSENGER MOTOR VEHICLE HAS BEEN ENROLLED, AND IS RENTED, IN A PERSONAL
38 MOTOR VEHICLE SHARING PROGRAM;

39 (3) IN THE EVENT THE PERSONAL MOTOR VEHICLE OWNER ENROLLS A PERSONAL
40 PASSENGER MOTOR VEHICLE IN MORE THAN ONE PERSONAL MOTOR VEHICLE SHARING
41 PROGRAM, THE NOTICE REQUIRED BY THIS PARAGRAPH SHALL BE MADE FOR EACH
42 PERSONAL MOTOR VEHICLE SHARING PROGRAM FOR WHICH THE PERSONAL PASSENGER
43 MOTOR VEHICLE IS ENROLLED; AND

44 (4) IN THE EVENT THE PERSONAL MOTOR VEHICLE OWNER FAILS TO NOTIFY THE
45 INSURANCE COMPANY WITH WHICH THE PERSONAL PASSENGER MOTOR VEHICLE OWNER
46 HAS CONTRACTED TO PROVIDE LIABILITY AND PROPERTY AND CASUALTY INSURANCE
47 COVERAGE FOR THE PERSONAL PASSENGER MOTOR VEHICLE, INCLUDING ANY INSURER
48 PROVIDING EITHER PRIMARY OR EXCESS COVERAGE, OR BOTH, AS REQUIRED BY
49 THIS PARAGRAPH, SUCH INSURANCE COMPANY MAY STILL DISCLAIM COVERAGE FOR
50 ANY AND ALL LIABILITY AND/OR DAMAGE INVOLVING THE PERSONAL PASSENGER
51 MOTOR VEHICLE DURING ANY TIME PERIOD IN WHICH SUCH PERSONAL PASSENGER
52 MOTOR VEHICLE IS BEING RENTED UNDER THE PERSONAL MOTOR VEHICLE SHARING
53 PROGRAM; AND PROVIDED, FURTHER, SUCH INSURANCE COMPANY SHALL BE PERMIT-
54 TED TO CANCEL OR NON-RENEW COVERAGE FOR OR INCREASE THE RATE FOR THE
55 COST OF THE CONTRACT TO PROVIDE LIABILITY AND PROPERTY AND CASUALTY
56 INSURANCE COVERAGE, INCLUDING PRIMARY AND/OR EXCESS, OR BOTH, FOR THE

PERSONAL PASSENGER MOTOR VEHICLE, DUE TO THE FACT THAT THE REQUIRED NOTICE THAT THE PERSONAL MOTOR VEHICLE HAS BEEN ENROLLED, AND IS RENTED, IN A PERSONAL MOTOR VEHICLE SHARING PROGRAM WAS NOT IN ACCORDANCE WITH THIS ARTICLE. THE OWNER SHALL HAVE FIFTEEN DAYS AFTER THE FIRST RENTAL OR WITHIN THE THIRTY DAY NOTIFICATION PERIOD STATED IN THIS PARAGRAPH, WHICHEVER IS SOONER, TO CURE THE FAILURE TO PROVIDE NOTICE PROVISION OF THIS PARAGRAPH.

S 3503. LIABILITY PROVISIONS. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR ANY PROVISION IN A PERSONAL PASSENGER MOTOR VEHICLE OWNER'S AUTOMOBILE INSURANCE POLICY, IN THE EVENT OF A LOSS OR INJURY THAT OCCURS DURING THE RENTAL PERIOD OR OTHERWISE UNDER THE CONTROL OF A PERSONAL MOTOR VEHICLE SHARING PROGRAM, THE PROGRAM PROVIDER SHALL ASSUME ALL LIABILITY UNDER SECTION THREE HUNDRED EIGHTY-EIGHT OF THE VEHICLE AND TRAFFIC LAW AND SUCH OTHER STATUTES THAT MAY IMPOSE LIABILITY UPON AN OWNER OF A PRIVATE PASSENGER MOTOR VEHICLE AS IF THE PROGRAM PROVIDER WERE THE OWNER OF THE VEHICLE. THE PROGRAM PROVIDER SHALL RETAIN SUCH LIABILITY IRRESPECTIVE OF A LAPSE IN THE INSURANCE POLICY OF THE PROGRAM OR WHETHER SUCH LIABILITY IS COVERED UNDER THE INSURANCE POLICY OF THE PROGRAM.

(B) SECTION THREE HUNDRED EIGHTY-EIGHT OF THE VEHICLE AND TRAFFIC LAW SHALL NOT APPLY TO THE PERSONAL MOTOR VEHICLE OWNER WHILE THE VEHICLE IS UNDER THE POSSESSION AND CONTROL OF A PERSONAL MOTOR VEHICLE SHARING RENTER OR OTHERWISE UNDER THE CONTROL OF A PERSONAL MOTOR VEHICLE SHARING PROGRAM. NOTHING IN THIS SECTION SHALL LIMIT THE LIABILITY OF THE PROGRAM PROVIDER FOR ITS ACTS OR OMISSIONS, OR THE ACTS OR OMISSIONS OF THE PERSONAL MOTOR VEHICLE SHARING RENTER, THAT RESULT IN INJURY TO ANY PERSONS AS A RESULT OF THE USE OR OPERATION OF A MOTOR VEHICLE WHILE IN CUSTODY OF A PERSONAL MOTOR VEHICLE SHARING PROGRAM. HOWEVER, NOTHING IN THIS SECTION SHALL LIMIT THE ABILITY OF THE PROGRAM TO, BY CONTRACT, SEEK INDEMNIFICATION FROM THE VEHICLE'S REGISTERED OWNER FOR ANY CLAIMS PAID BY THE PROGRAM FOR ANY LOSS OR INJURY RESULTING FROM FRAUD OR MATERIAL INTENTIONAL MISREPRESENTATION BY THE VEHICLE'S REGISTERED OWNER, PROVIDED THAT THE VEHICLE SHARING PROGRAM DISCLOSES IN THE CONTRACT THAT:

(1) THE PROGRAM IS ENTITLED TO SEEK INDEMNIFICATION IN THESE CIRCUMSTANCES; AND

(2) THE REGISTERED OWNER'S INSURANCE POLICY MAY NOT PROVIDE DEFENSE OR INDEMNIFICATION FOR ANY LOSS OR INJURY RESULTING FROM FRAUD OR MATERIAL INTENTIONAL MISREPRESENTATION.

(C) A PROGRAM PROVIDER'S GROUP POLICY SHALL PROVIDE COVERAGE DURING THE RENTAL PERIOD FOR AN OWNER'S MOTOR VEHICLE REGISTERED IN THIS STATE THE EARLIER OF ONE-HALF HOUR BEFORE THE SCHEDULED RESERVATION START TIME DESCRIBED IN THE PROGRAM PROVIDER'S RECORDS, OR WHEN THE RENTER TAKES POSSESSION OR CONTROL OF THE VEHICLE, AND THE PROGRAM PROVIDER SHALL CONTINUE TO BE LIABLE PURSUANT TO THIS SECTION UNTIL BOTH OF THE FOLLOWING OCCUR:

(1) THE PERSONAL PASSENGER MOTOR VEHICLE IS RETURNED TO A LOCATION SPECIFIED BY THE OWNER, OR DESIGNATED BY THE PERSONAL MOTOR VEHICLE SHARING PROGRAM; AND

(2) THE EARLIEST OF ONE OF THE FOLLOWING OCCURS:

(A) THE EXPIRATION OF THE TIME PERIOD ESTABLISHED FOR THE PARTICULAR USE OF THE VEHICLE;

(B) THE INTENT TO TERMINATE THE PERSONAL MOTOR VEHICLE SHARING USE IS VERIFIABLY COMMUNICATED TO THE PROGRAM PROVIDER OR THE OWNER; OR

(C) THE VEHICLE'S OWNER TAKES POSSESSION AND CONTROL OF THE PERSONAL PASSENGER MOTOR VEHICLE.

1 (D) THE INSURER OR INSURERS PROVIDING GROUP LIABILITY INSURANCE TO THE
2 PERSONAL MOTOR VEHICLE SHARING PROGRAM PURSUANT TO PARAGRAPH (A) OF
3 SECTION THREE THOUSAND FIVE HUNDRED FOUR OF THIS ARTICLE AND GROUP PHYS-
4 ICAL DAMAGE INSURANCE TO THE PERSONAL MOTOR VEHICLE SHARING PROGRAM
5 PURSUANT TO PARAGRAPH (D) OF SECTION THREE THOUSAND FIVE HUNDRED FOUR OF
6 THIS ARTICLE SHALL ASSUME LIABILITY FOR A CLAIM IN WHICH A DISPUTE
7 EXISTS REGARDING WHO WAS IN CONTROL OF THE VEHICLE WHEN THE LOSS
8 OCCURRED GIVING RISE TO THE CLAIM, AND THE OWNER'S PRIVATE PASSENGER
9 MOTOR VEHICLE INSURER SHALL INDEMNIFY THE PERSONAL MOTOR VEHICLE SHARING
10 PROGRAM'S GROUP INSURER OR INSURERS TO THE EXTENT OF ITS OBLIGATION
11 UNDER THE APPLICABLE INSURANCE POLICY, IF IT IS DETERMINED THAT THE
12 VEHICLE'S OWNER WAS IN CONTROL OF THE VEHICLE AT THE TIME OF THE LOSS.
13 THE PROGRAM SHALL NOTIFY THE REGISTERED OWNER'S INSURER OF ANY SUCH
14 DISPUTE WITHIN TEN BUSINESS DAYS OF BECOMING AWARE THAT SUCH A DISPUTE
15 EXISTS.

16 (E) IN THE EVENT THAT THE OWNER OF THE VEHICLE OR ITS INSURER IS NAMED
17 AS A DEFENDANT IN A CIVIL ACTION FOR A LOSS OR INJURY THAT OCCURS DURING
18 ANY TIME WITHIN THE RENTAL PERIOD, OR OTHERWISE UNDER THE CONTROL OF A
19 PERSONAL MOTOR VEHICLE SHARING PROGRAM, THE PERSONAL MOTOR VEHICLE SHAR-
20 ING PROGRAM'S GROUP LIABILITY INSURANCE INSURER UNDER PARAGRAPH (A) OF
21 SECTION THREE THOUSAND FIVE HUNDRED FOUR OF THIS ARTICLE SHALL HAVE THE
22 DUTY TO DEFEND AND INDEMNIFY THE VEHICLE'S OWNER AND THE VEHICLE OWNER'S
23 INSURER, SUBJECT TO THE PROVISIONS OF SUBSECTIONS (B) AND (D) OF THIS
24 SECTION.

25 (F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHILE
26 A PERSONAL PASSENGER MOTOR VEHICLE IS USED BY A PERSON OTHER THAN ITS
27 OWNER, PURSUANT TO PERSONAL VEHICLE SHARING FACILITATED THROUGH A
28 PERSONAL VEHICLE SHARING PROGRAM, ALL OF THE FOLLOWING SHALL APPLY:

29 (1) THE INSURER OF THAT VEHICLE ON FILE WITH THE DEPARTMENT OF MOTOR
30 VEHICLES MAY EXCLUDE ANY AND ALL COVERAGE FOR LIABILITY, UNINSURED,
31 UNDERINSURED, COLLISION PHYSICAL DAMAGE AND COMPREHENSIVE PHYSICAL
32 DAMAGE BENEFITS AND FIRST-PARTY BENEFITS THAT MAY OTHERWISE BE AFFORDED
33 PURSUANT TO ITS POLICY; AND

34 (2) THE PRIMARY AND EXCESS INSURER OR INSURERS OF THE OWNER OF THE
35 PERSONAL PASSENGER MOTOR VEHICLE USED IN A PERSONAL VEHICLE SHARING
36 PROGRAM SHALL HAVE THE RIGHT TO NOTIFY THE INSURED THAT IT HAS NO DUTY
37 TO DEFEND OR INDEMNIFY ANY PERSON OR ORGANIZATION FOR LIABILITY FOR ANY
38 LOSS THAT OCCURS DURING THE RENTAL PERIOD OF THE VEHICLE IN A PERSONAL
39 VEHICLE SHARING PROGRAM.

40 (G) NO VEHICLE OWNER'S POLICY OF INSURANCE THAT IS SUBJECT TO SECTION
41 THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS CHAPTER SHALL BE
42 CANCELLED, VOIDED, TERMINATED, RESCINDED, NON-RENEWED OR HAVE ITS RATES
43 INCREASED, SOLELY ON THE BASIS THAT THE PERSONAL PASSENGER MOTOR VEHICLE
44 HAS BEEN MADE AVAILABLE FOR PERSONAL VEHICLE SHARING PURSUANT TO A
45 PERSONAL VEHICLE SHARING PROGRAM THAT IS IN COMPLIANCE WITH THE
46 PROVISIONS OF THIS SECTION. PROVIDED, HOWEVER THAT:

47 (1) THE PROVISIONS OF THIS SUBSECTION SHALL NOT PERTAIN TO CANCELLA-
48 TIONS IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (F) OF SECTION
49 THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS CHAPTER;

50 (2) AN INSURER MAY REFUSE TO ENROLL A VEHICLE IN A USAGE-BASED INSUR-
51 ANCE PROGRAM, WHERE SUCH USAGE-BASED INSURANCE PROGRAM CONTINUALLY MONI-
52 TORS USAGE ELECTRONICALLY TO DETERMINE ACCELERATION, BRAKING, MILES
53 DRIVEN AND OTHER INDICIA OF DRIVING BEHAVIOR, IF THAT VEHICLE IS USED IN
54 A PERSONAL VEHICLE SHARING PROGRAM UNDER THIS ARTICLE; AND

55 (3) AN INSURER MAY CANCEL OR NON-RENEW A POLICY THAT INSURES A VEHICLE
56 USED IN THE PERSONAL VEHICLE SHARING PROGRAM IF THAT VEHICLE IS ENROLLED

1 IN SUCH A USAGE-BASED INSURANCE PROGRAM. THE INSURER MUST IMMEDIATELY
2 OFFER THE INSURED A NEW POLICY WITH THE SAME COVERAGES AND PRE-EXISTING
3 RATES, BUT WITHOUT ENROLLMENT IN THE USAGE-BASED INSURANCE PROGRAM.

4 (H) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSONAL MOTOR VEHIC-
5 LE OWNER THAT MAKES A VEHICLE AVAILABLE FOR UTILIZATION IN A PERSONAL
6 MOTOR VEHICLE SHARING PROGRAM, AND THE PERSONAL MOTOR VEHICLE SHARING
7 PROGRAM, SHALL NOT BE SUBJECT TO VICARIOUS LIABILITY UNDER SECTION THREE
8 HUNDRED EIGHTY-EIGHT OF THE VEHICLE AND TRAFFIC LAW IN ACCORDANCE WITH
9 THE RELEVANT PROVISIONS OF FEDERAL LAW.

10 S 3504. GROUP INSURANCE FOR PERSONAL MOTOR VEHICLE SHARING PROGRAMS.
11 (A) AN INSURER WHICH IS AUTHORIZED TO DO BUSINESS IN THE STATE MAY
12 ISSUE, OR ISSUE FOR DELIVERY IN THIS STATE, A GROUP POLICY OF LIABILITY
13 AND PROPERTY AND CASUALTY INSURANCE TO A PERSONAL MOTOR VEHICLE SHARING
14 PROGRAM PROVIDER TO INSURE THE PERSONAL MOTOR VEHICLE SHARING PROGRAM,
15 AND ITS RENTERS AND OCCUPANTS OF THE PERSONAL PASSENGER MOTOR VEHICLE,
16 AS WELL AS THE PROGRAM PROVIDER, ITS AGENTS, EMPLOYEES, DIRECTORS, OFFI-
17 CERS AND ASSIGNS; AND

18 (1) THAT SUCH POLICY SHALL PROVIDE FIRST PARTY COVERAGE, LIABILITY,
19 PROPERTY, COMPREHENSIVE, COLLISION, AND UNINSURED/UNDERINSURED MOTORIST
20 COVERAGE FOR THE PERSONAL PASSENGER MOTOR VEHICLE AND ITS AUTHORIZED
21 OPERATORS AND OCCUPANTS FOR CLAIMS AND DAMAGES RESULTING FROM THE USE OR
22 OPERATION OF THAT VEHICLE WHILE IT IS IN THE CUSTODY OF THE PERSONAL
23 MOTOR VEHICLE SHARING PROGRAM;

24 (2) THAT SUCH POLICY SHALL BE PRIMARY WITH RESPECT TO ANY OTHER INSUR-
25 ANCE AVAILABLE TO THE OWNER OF THE PERSONAL PASSENGER MOTOR VEHICLE AND
26 SHALL BE EXCESS OVER ANY OTHER INSURANCE AVAILABLE TO THE PERSONAL MOTOR
27 VEHICLE SHARING RENTER; AND

28 (3) THAT SUCH INSURER SHALL COMPLY WITH THE PROVISIONS OF SECTIONS
29 THREE HUNDRED TWELVE-A AND THREE HUNDRED THIRTEEN OF THE VEHICLE AND
30 TRAFFIC LAW; AND

31 (4) THAT FOR THE PURPOSES OF GROUP INSURANCE WRITTEN UNDER THIS
32 SECTION ONLY, THE RATES CHARGED BY THE INSURER FOR GROUP LIABILITY
33 INSURANCE AS PROVIDED FOR IN THIS SECTION SHALL BE FILED WITH THE
34 DEPARTMENT OF FINANCIAL SERVICES ON A FILE AND USE BASIS.

35 (B) AN INSURER WHICH ISSUES AN INSURANCE POLICY DESCRIBED IN
36 SUBSECTION (A) OF THIS SECTION SHALL ISSUE SUCH POLICY IDENTIFYING THE
37 PERSONAL MOTOR VEHICLE SHARING PROGRAM AND PROGRAM PROVIDER AS THE NAMED
38 INSURED; AND ANY SUCH POLICY SHALL INCLUDE A PROVISION THAT PROVIDES
39 COVERAGE, WITHOUT PRIOR NOTICE TO THE INSURER, FOR ALL PERSONAL PASSEN-
40 GER MOTOR VEHICLES DURING THE RENTAL PERIOD AND SUCH POLICY SHALL
41 FURTHER INCLUDE A PROVISION THAT THE VEHICLES' OWNERS, AUTHORIZED OPERA-
42 TORS AND OCCUPANTS ARE INCLUDED AS INSUREDS UNDER THE POLICY TO THE SAME
43 EXTENT THAT THEY WOULD BE INSUREDS UNDER A PRIVATE PASSENGER MOTOR VEHIC-
44 LE POLICY ISSUED PURSUANT TO SECTION THREE THOUSAND FOUR HUNDRED TWEN-
45 TY-FIVE OF THIS CHAPTER AND SECTION THREE HUNDRED ELEVEN OF THE VEHICLE
46 AND TRAFFIC LAW.

47 (C) A GROUP POLICY AS PROVIDED FOR IN SUBSECTIONS (A) AND (B) OF THIS
48 SECTION SHALL ONLY BE ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THIS
49 ARTICLE.

50 (D) A PROGRAM PROVIDER MAY CONTRACTUALLY ASSUME THE RISK OF PHYSICAL
51 DAMAGE LOSS TO PERSONAL PASSENGER MOTOR VEHICLES DURING THE TIME THAT
52 THE VEHICLES ARE IN THE CUSTODY OF THE PERSONAL MOTOR VEHICLE RENTER OR
53 PERSONAL MOTOR VEHICLE SHARING PROGRAM; AND

54 (1) THAT THE TERMS OF SUCH CONTRACTUAL ASSUMPTION MAY PROVIDE THAT THE
55 PROGRAM PROVIDER IS ASSUMING THE RISK OF PHYSICAL DAMAGE LOSS TO THE
56 VEHICLE IN EXCESS OF A SUM CERTAIN;

(2) THAT SUCH ASSUMPTION OF RISK OF PHYSICAL DAMAGE LOSS TO THE VEHICLE SHALL NOT BE DEEMED TO BE PHYSICAL DAMAGE INSURANCE; AND

(3) THAT A PROGRAM PROVIDER SHALL ONLY BE PERMITTED TO ASSUME RESPONSIBILITY FOR POTENTIAL PHYSICAL DAMAGE TO PARTICIPATING VEHICLES AS PROVIDED FOR IN THIS PARAGRAPH UPON SATISFACTION OF CERTAIN STANDARDS TO BE DEVELOPED BY THE SUPERINTENDENT PURSUANT TO REGULATION, AND SUCH REGULATIONS SHALL ADDRESS THE FINANCIAL RESPONSIBILITY OF THE PROGRAM PROVIDER TO COVER THE COST OF PHYSICAL DAMAGE, AND SHALL ESTABLISH STANDARDS REGARDING THE PROGRAM PROVIDER'S RESPONSE TO VEHICLE OWNERS REGARDING ANY PHYSICAL DAMAGE TO THEIR VEHICLES WHILE IN THE CUSTODY OF PERSONAL MOTOR VEHICLE SHARING RENTER AND PERSONAL MOTOR VEHICLE SHARING PROGRAM.

(E) AN INSURER WHICH IS AUTHORIZED OR ELIGIBLE TO DO BUSINESS IN THE STATE MAY ISSUE A GROUP POLICY OF PHYSICAL DAMAGE INSURANCE TO A PERSONAL MOTOR VEHICLE SHARING PROGRAM AND TO THE OWNERS OF PERSONAL PASSENGER MOTOR VEHICLES PARTICIPATING IN THAT PROGRAM TO INSURE AGAINST PHYSICAL DAMAGE LOSS TO VEHICLES WHILE THE VEHICLES ARE IN THE CUSTODY OF THE PERSONAL MOTOR VEHICLE SHARING PROGRAM OR PERSONAL MOTOR VEHICLE SHARING RENTER. SUCH GROUP POLICY SHALL PROVIDE PRIMARY COVERAGE FOR PHYSICAL DAMAGE LOSS EITHER BY COLLISION, COMPREHENSIVE, OR BOTH, TO THE VEHICLE WHILE IT IS IN THE CUSTODY OF THE PERSONAL MOTOR VEHICLE SHARING PROGRAM OR A PERSONAL MOTOR VEHICLE SHARING RENTER.

(F) IF THE GROUP COVERAGE PROVIDED FOR IN SUBSECTION (E) OF THIS SECTION IS PLACED WITH AN ELIGIBLE EXCESS LINE INSURER, COMPLIANCE WITH THE EXCESS LINE STATUTES AND REGULATIONS OF THIS STATE SHALL BE PERFORMED WITH RESPECT TO THE GROUP AS A WHOLE AND NOT WITH RESPECT TO INDIVIDUAL GROUP MEMBERS.

(G) AN INSURER WHICH ISSUES A GROUP INSURANCE POLICY DESCRIBED IN SUBSECTION (E) OF THIS SECTION SHALL ISSUE SUCH POLICY IDENTIFYING THE PERSONAL MOTOR VEHICLE SHARING PROGRAM AS THE NAMED INSURED, AND ANY SUCH POLICY SHALL INCLUDE A PROVISION THAT PROVIDES PRIMARY COVERAGE, WITHOUT PRIOR NOTICE TO THE INSURER, FOR ALL PERSONAL PASSENGER MOTOR VEHICLES DURING THE RENTAL PERIOD, AND SHALL FURTHER INCLUDE A PROVISION THAT CLAIMS WILL BE ADJUSTED PURSUANT TO SECTION THREE THOUSAND FOUR HUNDRED TWELVE OF THIS CHAPTER, AND IT SHALL FURTHER INCLUDE PHYSICAL DAMAGE COVERAGE FOR DAMAGE OR LOSS TO THE OWNER'S VEHICLE INCURRED DURING THE RENTAL PERIOD AT A LEVEL NO LESS THAN THAT OF THIRD PARTY PHYSICAL DAMAGE COVERAGE.

(H) A GROUP POLICY AS PROVIDED FOR IN SUBSECTIONS (E), (F) AND (G) OF THIS SECTION SHALL ONLY BE ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

S 3. Subdivision 4 of section 311 of the vehicle and traffic law is amended by adding a new paragraph (e) to read as follows:

(E) IN THE CASE OF A PERSONAL PASSENGER MOTOR VEHICLE, AS DEFINED IN SECTION THREE THOUSAND FIVE HUNDRED ONE OF THE INSURANCE LAW, THAT IS USED IN CONNECTION WITH A PERSONAL MOTOR VEHICLE SHARING PROGRAM AS DEFINED IN SUCH SECTION, THE INSURANCE REQUIREMENTS SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE MET BY A GROUP INSURANCE POLICY ISSUED PURSUANT TO SECTION THREE THOUSAND FIVE HUNDRED FOUR OF THE INSURANCE LAW TO A PROGRAM PROVIDER AND TO THE PERSONAL MOTOR VEHICLE SHARING RENTERS OF THAT PROGRAM FOR ANY TIME THAT THE VEHICLE IS BEING USED IN CONNECTION WITH THE PERSONAL MOTOR VEHICLE SHARING PROGRAM.

S 4. Subdivisions 2, 3, 4 and 5 of section 312 of the vehicle and traffic law are renumbered subdivisions 3, 4, 5 and 6, and a new subdivision 2 is added to read as follows:

1 2. IN THE CASE OF FINANCIAL SECURITY PROCURED BY A PROGRAM PROVIDER OF
2 A PERSONAL MOTOR VEHICLE SHARING PROGRAM AS SET FORTH IN SECTION THREE
3 THOUSAND FIVE HUNDRED FOUR OF THE INSURANCE LAW, THE PROGRAM PROVIDER
4 SHALL PROVIDE THE COMMISSIONER WITH PROOF OF FINANCIAL SECURITY IN THE
5 FORM OF A GROUP INSURANCE POLICY COVERING ITSELF AND THE OWNERS OF ALL
6 PERSONAL PASSENGER MOTOR VEHICLES REGISTERED IN THIS STATE THAT PARTIC-
7 IPATE IN THE PROGRAM AS INSURED GROUP MEMBERS, COVERING THOSE VEHICLES
8 WHILE THEY ARE BEING USED IN CONJUNCTION WITH THAT PROGRAM. SUCH PROOF
9 SHALL NOT BE USED IN CONNECTION WITH THE REGISTRATION OF THE VEHICLES
10 AND NO SUCH VEHICLE SHALL BE REGISTERED UNLESS THE OWNER OF THE VEHICLE
11 SEPARATELY COMPLIES WITH SUBDIVISION ONE OF THIS SECTION.

12 S 5. Subdivision 1 of section 312-a of the vehicle and traffic law, as
13 amended by chapter 781 of the laws of 1983, is amended to read as
14 follows:

15 1. Upon issuance of an owner's policy of liability insurance, A GROUP
16 LIABILITY INSURANCE POLICY ISSUED TO A PROGRAM PROVIDER OF A PERSONAL
17 MOTOR VEHICLE SHARING PROGRAM PURSUANT TO SECTION THREE THOUSAND FIVE
18 HUNDRED FOUR OF THE INSURANCE LAW or other financial security required
19 by this chapter, an insurer shall issue proof of insurance in accordance
20 with the regulations promulgated by the commissioner pursuant to para-
21 graph (b) of subdivision two of section three hundred thirteen of this
22 article.

23 S 6. Paragraphs (a) and (b) of subdivision 2 of section 313 of the
24 vehicle and traffic law, as amended by chapter 509 of the laws of 1998,
25 are amended to read as follows:

26 (a) Upon the termination of an owner's policy of liability insurance
27 OR A GROUP LIABILITY INSURANCE POLICY ISSUED TO A PROGRAM PROVIDER OF A
28 PERSONAL MOTOR VEHICLE SHARING PROGRAM PURSUANT TO SECTION THREE THOU-
29 SAND FIVE HUNDRED FOUR OF THE INSURANCE LAW, other than an owner's poli-
30 cy of liability insurance for a motorcycle, at the request of the
31 insured or by cancellation by the insurer, the insurer shall file a
32 notice of termination with reference to such policy, as opposed to any
33 insured vehicle or vehicles under such policy, with the commissioner not
34 later than thirty days following the effective date of such cancellation
35 or other termination, in accordance with the regulations required by
36 paragraph (c) of this subdivision. An insurer shall not file a notice of
37 termination with the commissioner except as required by this subdivi-
38 sion.

39 (b) Upon the issuance of an owner's policy of liability insurance OR
40 A GROUP LIABILITY INSURANCE POLICY ISSUED TO A PROGRAM PROVIDER OF A
41 PERSONAL MOTOR VEHICLE SHARING PROGRAM PURSUANT TO SECTION THREE THOU-
42 SAND FIVE HUNDRED FOUR OF THE INSURANCE LAW, the insurer shall file a
43 notice or confirmation of issuance with reference to such policy not
44 later than fourteen days following the effective date of such issuance,
45 and not later than seven days following the effective date for policies
46 issued after January first, two thousand one, in accordance with the
47 regulations required by paragraph (c) of this subdivision.

48 S 7. Consent orders. All consent orders agreed to by the department of
49 financial services, concerning allegations of unauthorized and/or unlaw-
50 ful operation of a car sharing program in the state of New York, and
51 involving incidents which allegedly occurred prior to the effective date
52 of this act, shall be deemed, satisfied, expired, discontinued and non-
53 renewable by all parties, on and after the effective date of this act.

54 S 8. This act shall take effect immediately.